

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 21, 2006**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 21, 2006, commencing at 7:00 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Johnson, and Mounce
Absent: Council Members – Mayor Hitchcock
Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Taylor

B. TOPIC(S)

B-1 "Preview of proposed new Code Enforcement ordinance"

Community Development Director, Randy Hatch, presented an outline of the proposed Code Enforcement program (filed). He shared that the overall Code Enforcement program has three main components: Council priorities with regard to reactive and proactive measures, ordinance revisions to provide the tools to efficiently and expeditiously address code enforcement violations, and the modification and clarification of language guidelines to specifically address and resolve code violations.

Mr. Hatch outlined that current tools available to deal with Code Enforcement issues allow for Code Enforcement staff to review and verify a violation, send a courtesy notice stating the issue, and request voluntary compliance with the notice. He stated that approximately 70% to 80% of all code violations are resolved through voluntary compliance by the citizen and that, while most citizens are aware of the disorder or problem, they did not know it was a violation prior to the courtesy notice. If compliance is not achieved, a Notice of Violation is issued for zoning or nuisance situations, or a Notice of Order is issued for housing or dangerous conditions per the building code. Fees for non-compliance may be imposed and have the potential to be poorly received and even ignored because language regarding the implementation and collection of fees is unclear. Currently, fees must be collected using the court system to process these infractions and misdemeanors; however, this process is considered cumbersome for the court system and excessive for the caliber of violations.

Mr. Hatch explained that the newly proposed Code Enforcement tools have been designed not to replace the current system, but to clarify and enhance it, particularly where safety issues exist with regard to criminal complaints, abatement, and repetitive nuisance code violations. The proposal introduces an ordinance providing guidelines for the use of an administrative citation designed to capture the attention of offenders and to impose an appropriate fine to be paid for code violations. With code enforcement concentrating on resolving violations, additional administrative citations may be issued with additional fines imposed for those unwilling to adhere to the courtesy notice and subsequent orders to clean up or repair the cited property. As a key part of the administrative citation process, those refusing to adhere to the citation will be given an opportunity to appeal the citation with a hearing officer who will provide an unbiased judgment and resolution regarding the problem. Hearings may be held throughout the year as determined by the number of appeals received and the detail of the cases to be heard.

At the request of Council Member Hansen, Mr. Hatch explained that hiring an unbiased hearing officer is well received and commonplace in other communities, but will be a new practice in Lodi. As in other cities, a fee of approximately \$500 per hearing would be paid to the hearing officer using fines collected through administrative citations equal to \$100 per citation. He noted that appeals may be scheduled so that the hearing officer will hear a consecutive number of appeals in one afternoon for the hearing fee charged.

City Attorney Schwabauer shared that while the City uses in-house staff to hear appeals regarding parking citations, case law indicates this process is frowned upon when dealing with administrative citation hearings for code enforcement. Deputy City Attorney, Janice Magdich, added that another option might be to enter into an agreement with other city attorneys in the area to act as hearing officers, noting that this type of activity has been effective when hearing appeals related to dangerous animals. She added that the City could begin with this type of quid pro quo agreement and then could move toward a compensation format should the volume of hearings increase.

In response to Council Member Mounce, Mr. Hatch shared that staff intends to establish a fee to be charged to partially cover costs associated with administrative citation appeals, in part to discourage receiving an appeal for every administrative citation. He stated that the system is set up so that when courtesy notices are met with voluntary compliance, there are no fees imposed or collected.

Community Improvement Manager, Joseph Wood, stated that citizens who cannot physically or financially respond to courtesy notices with regard to repairs and maintenance can receive assistance. He noted that over the years a network has been established of groups that are willing to provide assistance for those that do not have the means by which to comply with notices. Since these citizens are matched with groups to help them respond through voluntary compliance, there are no fees incurred.

At the request of Mayor Pro Tempore Johnson, Mr. Wood explained that the current process makes the levying and cost recovery of non-compliance fees difficult. The initial fee for non-compliance is \$100 and the second and subsequent fee is \$300 per assessment with the burden upon the City to justify imposing fees on a daily, weekly, or monthly basis. He stated that the new ordinance and updated language provides a real incentive for compliance because administrative citations are \$100 for the first citation, \$250 for the second citation, and \$500 for subsequent citations, and that fees may be imposed as often as daily. He added that, while the new program will allow staff to expedite and adapt the process when dealing with chronic, blatant, and more serious violations, the main purpose of code enforcement is to establish a comprehensive program to encourage compliance.

Community Development Director Hatch stated that some citizens may look forward to the appeal process if only for the opportunity to present their case to an unbiased hearing officer. He shared that the recommended administrative citation process is designed to focus on those citizens that need incentive to comply with established codes, and the process allows the City the ability to customize fines to the level of the violation. Additionally, Council may choose to establish small fines, e.g. \$35, for minor violations such as leaving out trash cans at the curb. He shared that if individuals do not pay citations after being ordered to do so as a result of the appeal process, the City could choose to attach the fees to utility bills or other mechanisms for payment collection.

Deputy City Attorney Magdich explained that other options are available to both parties following the appeal process through the filing of civil proceedings, an appeal to the Superior Court, or the City may wish to file criminal charges.

In response to Council Member Hansen, Mr. Wood reported that he and both Code Enforcement Officers have received the proper training and will have the authority to issue citations, adding that he will oversee each case before an administration citation is issued and throughout the process toward compliance.

Council Member Beckman stated that he would not be in favor of attaching administrative citation fees and non-compliance fees to utility bills for payment. Mr. Hatch clarified that this is an effective tool in other communities, but difficulties occur when the violator is not the responsible named on the utility account. He noted that this practice is not a mechanism that is part of the recommendation currently before Council.

Council Member Mounce commented that landlords and tenants should be considered jointly responsible for ensuring that properties are in compliance and asked if staff has looked at the possibility of issuing liens against property for citations and fees.

City Manager King responded that in each case Council would be required to conduct a hearing, review an accounting of costs incurred in enforcing the property, provide the tenant an opportunity to state their case, and then either dismiss or direct that a lien be assessed on the property through the County Assessor's office.

Deputy City Attorney Magdich stated that municipalities can adopt ordinances to place liens to recover abatement costs, assessment costs, fines, and collection, or may also consider filing a civil action to obtain a judgment from the court, which can be recorded as a lien against the property. While staff's proposal does not reflect these options, the Council and City do have additional tools available as a final means to recover costs.

Community Improvement Manager Wood stated that one current process, the Notice of Substandard Conditions and Abatement Action, allows for an official document to be recorded placing a lien against the property. Attached to the title, it notifies parties interested in the property that an outstanding condition exists, which prevents its sale or refinance through normal transaction, making it a very effective tool in resolving liens and recovering costs. He shared that the proposed code enforcement tools will enhance the existing system by helping staff to encourage those few citizens who would not willingly comply to do so while supporting the City's cost recovery for code enforcement.

PUBLIC COMMENTS:

- Myrna Wetzel commented that she has seen people ignore notices of abatement for buildings that are unsafe and that they will sneak back in to live in the structure and hide from code enforcement officers even after the power has been shut off.

Council Member Mounce stated that upon its inception in 1993, the Lodi Improvement Committee's (formerly East Side Improvement Committee) main point of focus was creating a means to enforce codes to address specific problems in the older areas of Lodi. She commended Mr. Wood and his team for doing a great job and for bringing forth an updated plan that will provide the necessary tools for a successful Code Enforcement program.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 7:56 a.m.

ATTEST:

Jacqueline L. Taylor
Deputy City Clerk